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| APPLICATION NO.  | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO.             | CONFIRMATION NO.       |
|--|-------------|----------------------|---------------------------------|------------------------|
| 09/909,630   | 07/19/2001  | Yakov Kamen          | ISURFTV146                      | 9979                   |
| 52940 7590 08/28/2007<br>HOLLAND & KNIGHT LLP<br>Attn: Stefan Stein/IP Dept<br>131 S. DEARBORN STREET<br>30TH FLOOR<br>CHICAGO, IL 60603 |             |                      | EXAMINER<br>CASCHERA, ANTONIO A |                        |
|  |             |                      | ART UNIT<br>2628                | PAPER NUMBER           |
|  |             |                      | MAIL DATE<br>08/28/2007         | DELIVERY MODE<br>PAPER |

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

**Advisory Action  
Before the Filing of an Appeal Brief**

Application No.

09/909,630

Applicant(s)

KAMEN, YAKOV

Examiner

Antonio A. Caschera

Art Unit

2628

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

THE REPLY FILED 20 August 2007 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

- a) ☒ The period for reply expires 5 months from the mailing date of the final rejection.  
b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**NOTICE OF APPEAL**

2. ☐ The Notice of Appeal was filed on \_\_\_\_\_. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

**AMENDMENTS**

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will not be entered because  
(a) ☐ They raise new issues that would require further consideration and/or search (see NOTE below);  
(b) ☐ They raise the issue of new matter (see NOTE below);  
(c) ☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or  
(d) ☐ They present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: \_\_\_\_\_. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).  
5. ☐ Applicant's reply has overcome the following rejection(s): \_\_\_\_\_.  
6. ☐ Newly proposed or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).  
7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.  
The status of the claim(s) is (or will be) as follows:  
Claim(s) allowed: \_\_\_\_\_.  
Claim(s) objected to: 2, 12 and 22.  
Claim(s) rejected: 1, 3-7, 11, 13-17, 21 and 23-27.  
Claim(s) withdrawn from consideration: \_\_\_\_\_.

**AFFIDAVIT OR OTHER EVIDENCE**

8. ☐ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will not be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).  
9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will not be entered because the affidavit or other evidence failed to overcome all rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).  
10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

**REQUEST FOR RECONSIDERATION/OTHER**

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because:  
See Continuation Sheet.  
12. ☐ Note the attached Information Disclosure Statement(s). (PTO/SB/08) Paper No(s). \_\_\_\_\_  
13. ☐ Other: \_\_\_\_\_.

KEE M. TUNG  
SUPERVISORY PATENT EXAMINER

Continuation of 11. does NOT place the application in condition for allowance because: In reference to claims 1, 3-7, 11, 13-17, 21 and 23-27, Applicant argues that the cited prior art do not teach the limitation of progressively modifying a non-textual attribute associated with the object by an incremental amount for each of at least more than two times that the object is selected (see page 6 of Applicant's Remarks). Further Applicant argues that the change in bead size performed in Lee is not responsive to an amount for each of at least more than two times that the bead is selected (see pages 6-7 of Applicant's Remarks). Lastly, Applicant argues that the changing in bead size of Lee takes place after the first instance of the selection of the bead (see page 7 of Applicant's Remarks).

The Office replies by attempting to further explain its interpretation of the prior art of record. As stated in the rejection of 03/20/07, Lee discloses allowing a user to use a GUI tool to search/display via a rotational element that comprises of "beads," with each "bead" having an associated string accompanied thereto (see column 8, lines 28-56 and #150, 110, 115 and "Movies" bead of Figure 4). Lee explicitly discloses that the user is capable of navigating to a desired string by selecting it using the vertical cursor keys of a remote control (see #212, 232 of Figure 2), which modifies the display of the UI to create the effect of rolling the beads up or down on each key press, bringing a new bead and string into the "selected," middle region (see column 8, lines 28-56 #150, 110, 115 and "Movies" bead of Figure 4). In other words, the tool of Lee is explicitly selected more than two times as the "beads" "roll" into and out of the foreground/background and "selected" position along with their associated string data. With each selection of the tool in a like direction, i.e. pressing the vertical cursor key more than two times, the tool is re-rendered so that the beads are reconfigured in a specific location along with a specific size to display the 3D effect of the "rolling" beads (see Figure 4). Therefore the Office interprets that the selection of the GUI tool in Lee effectively progressively modifies the tool by modifying the size and position (non-textual attributes) of the elements of the tool (beads). Further, even though the GUI element of Lee may progressively modify the beads in an incremental amount after the first selection, further selection of the tool modifies the beads incrementally. The claim language solely states that the object is incrementally modified at least more than two times the object is selected which is taught by Lee since Lee discloses that if the tool is selected x amount of times by a user, modification of the tool occurs after the first, second, third....x time the tool is selected. Therefore in addition to modification after the first and second selection, modification occurs indefinitely until x amount of times is reached. With this reasoning, the Office maintains its current rejection based upon Yasukawa, Lee, Bedard and Wilcox.



**Antonio Caschera**  
Patent Examiner